

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORP., and
CAVIUM, INC.,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner

Case IPR2017-01392¹
U.S. Patent No. 7,337,241

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
UNDER 37 C.F.R. § 42.64**

¹ Cavium, who filed a Petition in Case IPR2017-01728, has been joined as a petitioner in this proceeding.

Pursuant to 37 C.F.R. § 42.64(b), Patent Owner, Alacrittech, Inc. hereby makes the following objections to the admissibility of documents submitted with Petitioner’s Petition.

Evidence	Objections
Exhibit 1003 (Horst Declaration)	<p>Patent Owner objects to this exhibit because it includes information that is not discussed sufficiently in the Petition. Admissibility of such declaration would permit the use of declarations to circumvent the page limits that apply to petitions.</p> <p>FRE 702: Patent Owner objects to this exhibit to the extent it is irrelevant, not based on a reliable foundation, and constitutes conclusory opinions without sufficient support. For example, it provides no basis or evidence that:</p> <p style="padding-left: 40px;">Stevens1, Stevens2, and Tanenbaum96 “were well known resources to a POSA”;</p> <p style="padding-left: 40px;">“A POSA would have understood the standard functionality of UDP would be included in the adapter script and it within the ordinary level of knowledge to a POSA well before October 1997”</p> <p>FRE 801: Patent Owner objects to this exhibit because it includes inadmissible hearsay that does not fall within the scope of any hearsay exception under FRE 803.</p>
Exhibit 1004 (Horst Resume)	<p>FRE 801: Patent Owner objects to this exhibit because it is hearsay under FRE 801.</p>
Exhibit 1006 (Tanenbaum96)	<p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p>

Evidence	Objections
	<p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. To the extent that Petitioner attempts to rely on any date that appears on this exhibit to establish public accessibility, the date is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>Patent Owner also objects to this exhibit because Petitioner fails to establish that this exhibit is publicly available before the priority date of the patent at issue.</p>
Exhibit 1007 (Darpa Internet Protocol Specification)	<p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. To the extent that Petitioner attempts to rely on any date that appears on this exhibit to establish public accessibility, the date is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>Patent Owner also objects to this exhibit because Petitioner fails to establish that this exhibit is publicly available before the priority date of the patent at issue.</p> <p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p>
Exhibit 1008 (Stevens1)	<p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what</p>

Evidence	Objections
	<p>Petitioner claims it is, and has failed to authenticate this exhibit.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. To the extent that Petitioner attempts to rely on any date that appears on this exhibit to establish public accessibility, the date is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>Patent Owner also objects to this exhibit because Petitioner fails to establish that this exhibit is publicly available before the priority date of the patent at issue.</p> <p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p>
Ex.1009 (Proposed Host-Front End Protocol)	<p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. To the extent that Petitioner attempts to rely on any date that appears on this exhibit to establish public accessibility, the date is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>Patent Owner also objects to this exhibit because Petitioner fails to establish that this exhibit is publicly available before the priority date of the patent at issue.</p>

Evidence	Objections
	<p>FRE 401, 402, and 403: Patent Owner objects to this exhibit because it is not relied on as a reference and is irrelevant, and its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.</p>
Exhibit 1011 (Librarian Declaration of Rice Majors)	<p>FRE 602: Patent Owner objects to this exhibit because Petitioner does not introduce evidence of declarant's personal knowledge of the subject matter of the testimony contained therein.</p> <p>FRE 701 and FRE 702: Patent Owner objects to this exhibit because it includes opinion testimony of lay witness without meeting the requirement of FRE 701 and Petitioner fails to establish the witness as an expert under FRE 702.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 801.</p>
Exhibit 1013 (Stevens2)	<p>FRE 901: Patent Owner objects to this exhibit because Petitioner has failed to establish that this exhibit is what Petitioner claims it is, and has failed to authenticate this exhibit.</p> <p>FRE 801: Patent Owner also objects to this exhibit because it is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803. To the extent that Petitioner attempts to rely on any date that appears on this exhibit to establish public accessibility, the date is hearsay under FRE 801 and does not fall within the hearsay exceptions under FRE 803.</p> <p>Patent Owner also objects to this exhibit because Petitioner fails to establish that this exhibit is publicly available before the priority date of the patent at issue.</p>

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.